

TOWNSHIP OF MANALAPAN
ORDINANCE NO. 2017 - 17

AN ORDINANCE OF THE TOWNSHIP OF MANALAPAN, COUNTY OF MONMOUTH, STATE OF NEW JERSEY, AMENDING CHAPTER 176, "PROPERTY MAINTENANCE", OF THE CODE OF THE TOWNSHIP OF MANALAPAN, PERTAINING TO THE MAINTENANCE OF VACANT AND ABANDONED RESIDENTIAL PROPERTIES IN FORECLOSURE BY CREDITORS.

WHEREAS, mortgage foreclosures often result in the abandonment and neglect of residential properties; and

WHEREAS, N.J.S.A. 40:48-2.12s, authorizes municipalities to adopt ordinances for the purpose of regulating the care, maintenance, security and upkeep of the exterior of vacant and abandoned residential properties for which a creditor has filed an action to foreclose; and

WHEREAS, it is in the public interest for the Township of Manalapan to establish standards for the maintenance of those properties and to enforce those standards of maintenance.

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Manalapan, County of Monmouth and State of New Jersey as follows:

SECTION ONE. Chapter 176, "Property Maintenance", of the Code of the Township of Manalapan, Article II, "Residential Properties", be and the same is hereby amended and supplemented by the addition thereto of the following section:

**"176-29 Maintenance of Vacant and Abandoned Residential Properties
in Foreclosure.**

A. Definitions

- (1) "Creditor" means a State chartered bank, savings bank, savings and loan association or credit union, any person or entity required to be licensed under the provisions of the "New Jersey Residential Mortgage Act," P.L. 2009, c. 53 (C.17:11C-51 et seq.), any foreclosing entity subject to the provisions of C.46:10B-51 (P.L. 2008, c. 127, Sec. 17, as amended from time to time and any entity acting on behalf of the creditor named in the debt obligation including, but not limited to, servicers.

- (2) "Vacant and Abandoned" residential property means, consistent with section 1 of P.L. 2010, c. 70 (N.J.S.A. 2A:50-73), residential real estate, where a notice of violation has been issued pursuant to subsection b. of section 1 of N.J.S.A. 40:48-2.12s. Residential property shall further be deemed Vacant and Abandoned where a mortgaged property is not occupied by a mortgagor or tenant and at least two of the following conditions exist:
 - (a) overgrown or neglected vegetation;
 - (b) the accumulation of newspapers, circulars, flyers or mail on the property;
 - (c) disconnected gas, electric, or water utility services to the property;
 - (d) the accumulation of hazardous, noxious, or unhealthy substances or materials on the property;
 - (e) the accumulation of junk, litter, trash or debris on the property;
 - (f) the absence of window treatments such as blinds, curtains or shutters;
 - (g) the absence of furnishings and personal items;
 - (h) statements of neighbors, association management, delivery persons, or government employees indicating that the residence is vacant and abandoned;
 - (i) windows or entrances to the property that are boarded up or closed off or multiple window panes that are damaged, broken and unrepaired;
 - (j) windows or entrances to the property that are smashed through, broken off, unhinged, or continuously unlocked;
 - (k) a risk to the health, safety or welfare of the public, or any adjoining or adjacent property owners, exists due to acts

of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property;

- (l) an uncorrected violation of a municipal building, housing, or similar code during the preceding year, or an order by municipal authorities declaring the property to be unfit for occupancy and to remain vacant and unoccupied;
- (m) the mortgagee or other authorized party has secured or winterized the property due to the property being deemed vacant and unprotected or in danger of freezing;
- (n) a written statement issued by any mortgagor expressing the clear intent of all mortgagors to abandon the property;
- (o) any other reasonable indicia of abandonment.

B. Creditor Responsibility for Vacant Abandoned Properties

- (1) A Creditor which has previously filed or a Creditor upon filing a summons and complaint in an action to foreclose on a residential property within the Township is and shall be immediately responsible for the care, maintenance, security and upkeep of the exterior of the property after the property becomes Vacant and Abandoned as defined in this Section.
- (2) Where a Creditor is located out-of-state, the Creditor shall be responsible for appointing an in-State representative or agent to act on the Creditor's behalf for the purpose of satisfying the requirements of Paragraph B. (1) of this Section. Notice of said representative or agent shall be provided to the municipal clerk pursuant to paragraph (1) of subsection a. of section 17 of P.L. 2008, c. 127 (N.J.S.A. 46:10B-51) or within ten days of the adoption of this Ordinance whichever is later.

C. Notice

- (1) The enforcement officers designated in this Section shall be authorized to issue a notice to a Creditor that has filed a summons and complaint in an action to foreclose on a residential property within the Township if the enforcement officer determines that the Creditor has violated this Section by failing to provide for the care, maintenance, security, and upkeep of the exterior of a Vacant and Abandoned property. Where a Creditor is an out-of-State Creditor, the notice shall be issued to the representative or agent that has been identified by the Creditor pursuant to paragraph (1) of subsection a. of section 17 of P.L. 2008, c.

127 (N.J.S.A. 46:10B-51) or thereafter in accordance with the requirements hereof.

- (2) The notice referenced in this Section shall require the Creditor to correct violation(s) within 30 days of receipt of the notice, or within 10 days of receipt of the notice if the violation presents an imminent threat to public health and safety.
- (3) The issuance of a notice pursuant to this Section shall constitute proof that a residential property is Vacant and Abandoned for the purposes of this Section.

D. Enforcement Officers

The duty of administering and enforcing the provisions of this Section is conferred upon the construction official, zoning officer, code enforcement officer, health officer and any other duly appointed representative of the Township.

E. Violations and Penalties

- (1) A creditor subject to this Section, found by the municipal court of the Township, or by any other court of competent jurisdiction, to be in violation of the requirement to correct a care, maintenance, security, or upkeep violation cited in a notice issued pursuant to this Section shall be subject to a fine of \$1,500 for each day of violation. Any fines imposed pursuant to this paragraph shall commence 31 days following the receipt of the notice, except if the violation presents an imminent risk to public health and safety, in which case any fines shall commence 11 days following receipt of the notice.
- (2) An out-of-state Creditor subject to this Section, found by the municipal court of the Township, or by any other court of competent jurisdiction, to be in violation of the requirement to appoint an in-State representative or agent pursuant to this Section shall be subject to a fine of \$2,500 for each day of the violation. Any fines imposed on a Creditor for the failure to appoint an in-State representative or agent shall commence on the date after the 10-day period set forth in paragraph (1) of subsection a. of section 17 of P.L. 2008, c. 127 (N.J.S.A. 46:10B-51) for providing notice to the municipal clerk that a summons and complaint in an action to foreclose on a mortgage has been served or on the eleventh day after the effective date of this Ordinance which is later."

SECTION TWO. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION THREE. If any section, paragraph, clause or other portion of this ordinance be adjudged invalid, such decision shall not affect or impair the remaining portions of this Ordinance.

SECTION FOUR. This Ordinance shall take effect upon its passage and publication according to law.

NOTICE OF PUBLIC HEARING

The Ordinance published herewith was Introduced and approved at a meeting of the Township Committee of the Township of Manalapan held on [July 12, 2017](#) and will be further considered for final passage after a Public Hearing thereon before the Township Committee of the Township of Manalapan during a meeting to be held on Wednesday, [July 26, 2017](#) at the Municipal Complex, 120 Route 522 and Taylors Mills Road, Manalapan, New Jersey at 8:00 p.m. or as soon thereafter as the matter may be reached, or at any meeting to which that meeting may be adjourned, at which time any and all persons who may be interested therein will be given an opportunity to be heard.

The proposed Ordinance in its entirety is on file in the Municipal Clerk's Office and copies may be obtained without charge between the hours of 8:30 a.m. and 4:30 p.m. Monday through Friday. A complete copy may also be obtained from the Manalapan Township web-site www.mtnj.org by clicking on the Ordinance title listed on the Agenda posted for the Township Committee meeting of [July 26, 2017](#).

REGINA PRETEROTI, RMC
Municipal Clerk